

“Agremax”/ AES

Redacted - Non-Responsive

Background:

Our analysis of Agremax by the EPA Leaching Environmental Assessment Framework (i.e., EPA Method 1313 at: http://www.epa.gov/osw/hazard/testmethods/sw846/new_meth.htm) reveals that Agremax leaches several heavy metals, including arsenic, a known human carcinogen, well above health based standards. Similar leaching was also demonstrated by AES's own analyses by the EPA Toxicity Characteristic Leaching Procedure.

In September 2012, the environmental group Public Justice issued a notice of intent to sue AES under RCRA §7002 (Attachment A), and issued an addendum to the notice in February 2013 (Attachment B), but has since delayed filing a formal lawsuit. EPA shares Public Justice's concerns. The notice of intent to sue quotes extensively from EPA's November 2011 letter to EQB Chairman Nieves, which requested reconsideration of the EQB beneficial use determination that provides the solid waste exemption for Agremax, to incorporate, among other things, risk evaluation and engineering controls. In a January 2012 reply, Chairman Nieves stated that EQB was developing draft guidelines for the use of Agremax. EPA responded in February 2012, indicating that we remained concerned with the ongoing beneficial use of Agremax in the absence of appropriate engineering controls. EQB subsequently provided to EPA the draft guidelines to review, and EPA provided comments in a July 2012 letter. EPA later spoke with EQB Chairman Nieves who informed EPA that our comments, along with others received from the public and regulated community, were being evaluated by an independent committee and could not be reviewed by EQB until the committee's review was completed. Chairman Nieves did not, however, know when this would occur.

Among EPA's concerns is potential leaching from Agremax deposited at an AES well field north of the AES Guayama generating facility (Attachments C-E). EPA notes that, beyond being located in a flood plain, the AES well field presents a number of potential environmental risk factors because it is situated adjacent to wetlands and a surface water body, the Guaymani River (which EPA understands is used for subsistence fishing), as well as near a canal receiving water from nearby Lake Melania. It is also located upstream of the habitat of several federally endangered species. EPA met with AES in December 2012 and discussions with the company regarding EPA's concerns are ongoing.

Attachments:

- A) Public Justice Notice of Intent to Sue letter
- B) Addendum to Public Justice Notice of Intent to Sue
- C, D, E) Three photographs of Agremax deposited at an AES well field